



# House of Representatives

## File No. 754

General Assembly

January Session, 2005

(Reprint of File No. 628)

Substitute House Bill No. 6809  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 13, 2005

**AN ACT CONCERNING THE SERVICE OF CAPIAS AND WARRANTS  
BY STATE MARSHALS AND FEES AND EXPENSES RELATING TO  
THE EXECUTION OF TAX WARRANTS.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. Section 52-56 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) If any officer has commenced the service of any civil process  
4 within his precinct, he may attach the property of, or serve the process  
5 upon, any defendant named in the process outside of his precinct. An  
6 officer shall not be deemed to have commenced service in any civil  
7 action by process of foreign attachment or garnishment by service on  
8 the garnishee therein, unless the garnishee has concealed in his  
9 possession, at the time of the service, the property of the defendant or  
10 is indebted to him.

11 (b) If there are two or more defendants, any of whom reside outside  
12 of the precinct of the officer commencing service or, in any action in  
13 case of attachment of property or in case of foreign attachment or

14 garnishment, if any defendant or garnishee resides outside of the  
15 precinct of the officer commencing service, any officer may serve the  
16 process upon such of the defendants or garnishees as reside within his  
17 precinct, and may then (1) complete the service himself upon any  
18 defendant or garnishee residing outside his precinct, or (2) deliver the  
19 process to an officer of another precinct for service upon any  
20 defendant or garnishee residing in the other precinct and each officer  
21 serving the same shall endorse his actions thereon. The officer  
22 completing the service shall include in his endorsement a copy of the  
23 endorsement upon the writ of the officer commencing service and shall  
24 return the process to court.

25 (c) In any action where process is permitted to be served upon the  
26 Secretary of the State or the Commissioner of Motor Vehicles pursuant  
27 to sections 52-57, 52-59b, 52-62 and 52-63, service of such process may  
28 be made by any officer of any precinct having such process in his  
29 hands for service.

30 (d) The execution or service of any capias issued pursuant to section  
31 52-143 or 54-2a or any warrant or capias mittimus issued by a court or  
32 family support magistrate in a family support matter may be made in  
33 any precinct in the state by any state marshal of any precinct having  
34 such capias, warrant or capias mittimus in his hands for service.

35 Sec. 2. Section 12-162 of the general statutes is repealed and the  
36 following is substituted in lieu thereof (*Effective from passage and*  
37 *applicable to the execution of tax warrants issued on or after July 2, 2003*):

38 (a) Any collector of taxes, in the execution of tax warrants, shall  
39 have the same authority as state marshals have in executing the duties  
40 of their office, and any constable or other officer authorized to serve  
41 any civil process may serve a warrant for the collection of any tax  
42 assessed, and the officer shall have the same authority as the collector  
43 concerning taxes committed to such officer for collection.

44 (b) Upon the nonpayment of any property tax when due, demand  
45 having been made therefor as prescribed by law for the collection of

46 such tax, an alias tax warrant may be issued by the tax collector, which  
47 may be in the following form:

48 "To a state marshal of the County of ...., or any constable of the  
49 Town of .... Greeting: By authority of the state of Connecticut you are  
50 hereby commanded to collect forthwith from .... of .... the sum of ....  
51 dollars, the same being the amount of a tax with interest or penalty  
52 and charges which have accumulated thereon, which tax was levied by  
53 (insert name of town, city or municipality laying the tax) upon (insert  
54 the real estate, personal property, or both, as the case may be,) of said  
55 .... as of the .... day of ..... (In like manner insert the amount of any other  
56 property tax which may have been levied in any other year, including  
57 interest or penalty and charges which have accumulated thereon). In  
58 default of payment of said amount you are hereby commanded to levy  
59 for said tax or taxes, including interest, penalty and charges,  
60 hereinafter referred to as the amount due on such execution, upon any  
61 goods and chattels of such person and dispose of the same as the law  
62 directs, notwithstanding the provisions of subsection (j) of section 52-  
63 352b, and, after having satisfied the amount due on such execution,  
64 return the surplus, if any, to him; or you are to levy upon the real  
65 estate of such person and sell such real property pursuant to the  
66 provisions of section 12-157, to pay the amount due on such execution;  
67 or you shall make demand upon the main office of any banking  
68 institution indebted to such person, subject to the provisions of section  
69 52-367a or 52-367b, as if judgment for the amount due on such  
70 execution had been entered, for that portion of any type of deposit to  
71 the credit of or property held for such person, not exceeding in total  
72 value the amount due on such execution; or you are to garnishee the  
73 wages due such person from any employer, in the same manner as if a  
74 wage execution therefor had been entered, in accordance with section  
75 52-361a.

76 Dated at .... this .... day of .... A.D. 20.., Tax Collector."

77 (c) Any officer serving [such] an alias tax warrant pursuant to this  
78 section shall make return to the collector of such officer's actions

79 thereon within ten days of the completion of such service and shall be  
80 entitled to collect from such person the fees allowed by law for serving  
81 executions issued by any court. [Notwithstanding the provisions of  
82 section 52-261, any] Any state marshal or constable, authorized as  
83 provided in this section, who executes such warrant and collects any  
84 delinquent municipal taxes as a result thereof shall receive, in addition  
85 to expenses otherwise allowed, [an amount equal to ten per cent] a  
86 percentage of the taxes collected pursuant to such warrant, calculated  
87 at the rate applicable for the levy of an execution as provided in section  
88 52-261. The minimum fee for such service shall be [twenty] thirty  
89 dollars. Any officer unable to serve such warrant shall, within sixty  
90 days after the date of issuance, return such warrant to the collector and  
91 in writing state the reason it was not served.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	52-56
Sec. 2	<i>from passage and applicable to the execution of tax warrants issued on or after July 2, 2003</i>	12-162

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Social Services, Dept.	GF - Savings	Potential Significant	Potential Significant

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill's provisions could enhance the service of capias by state marshals and thereby result in state savings for child support. Currently there is a backlog of 4,200 outstanding capias warrants, with amounts owed ranging from \$100 to \$100,000. On average, about twenty per cent of child support collections flow in to the General Fund in the form of reimbursement for state assistance.

The bill also conforms statute to current practice with respect to the execution of tax warrants. There is no fiscal impact associated with this change.

House Amendment "A" made minor changes regarding the service of capias under the bill that are not expected to result in a fiscal impact.

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**OLR Bill Analysis**

sHB 6809 (as amended by House "A")\*

**AN ACT CONCERNING THE SERVICE OF CAPIAS AND WARRANTS BY STATE MARSHALS AND FEES AND EXPENSES RELATING TO THE EXECUTION OF TAX WARRANTS****SUMMARY:**

This bill allows a state marshal to serve the following anywhere in the state: (1) capias (a court order to take a person into custody) to arrest a witness who does not appear as required by a subpoena, (2) capias for a witness or defendant who violates a court order regarding a court appearance, or (3) warrant or capias issued by a court or family support magistrate in a family support matter.

The bill increases, from 10% to 15%, the share of the taxes collected that a state marshal or constable receives when executing an alias tax warrant and collecting delinquent municipal taxes, in addition to allowable expenses. It also increases the minimum fee for serving tax warrants from \$20 to \$30. These fees are the same fees for levying an execution.

\*House Amendment "A" eliminates provisions in the original bill (1) allowing officers other than state marshals, such as constables, to serve a capias or warrant listed above anywhere in the state and (2) giving state marshals the powers conferred on state police when they are serving a capias or warrant listed above.

EFFECTIVE DATE: Upon passage. The provision on tax warrants applies to those issued beginning July 2, 2003.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 40      Nay 0

